

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

KAREN LIONETTI,	)	
Plaintiff,	)	
	)	
vs.	)	1:06-cv-511-SEB-TAB
	)	
NATIONAL CITY BANK OF INDIANA,	)	
Defendant.	)	

**ORDER GRANTING DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Karen Lionetti, filed a Chapter 7 bankruptcy petition on January 10, 2005. In the course of her bankruptcy proceeding, Ms. Lionetti did not disclose her pending EEOC charge against National City, her former employer, as she was required to do under penalty of perjury. Therefore, National City now seeks summary judgment [Docket No. 53] in this employment discrimination action, asserting that Ms. Lionetti’s bankruptcy trustee – not Ms. Lionetti herself – is the real party in interest.

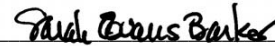
Ms. Lionetti’s counsel has made no effort to notify the bankruptcy trustee of this pending action, nor to substitute him as the real party in interest for Ms. Lionetti, despite his knowledge for many months that the named plaintiff is not the real party in interest and could not prosecute this action in her own name. Federal Rule of Civil Procedure 17(a) requires that every action be prosecuted in the name of the real party in interest – that is, the person who possesses the particular right sought to be enforced. Here, the bankruptcy trustee is the real party in interest as to all legal or equitable interests of the debtor, and thus has the exclusive right to represent the debtor in court. See Cable v. Ivy

Tech State Coll., 200 F.3d 467, 472 (7th Cir. 1999). Because that party is not before us and the Court, having been exceedingly patient, will wait no longer for counsel to act, National City's motion for summary judgment must be GRANTED.

Further, because we so hold, we do not reach the merits of Ms. Lionetti's state law claim regarding accrued vacation pay. Final judgment in this cause shall be entered accordingly.

IT IS SO ORDERED.

Date: 01/31/2008



SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

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